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c 158 Farm Products Marketing Act

Ontario

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CHAPTER 158

Farm Products Marketing Act

1. In this Act,

Interpre-
tation

- (a) "Board" means The Farm Products Marketing Board;
- (b) "farm product" means animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco, wood, or any class or part of any such product, and such articles of food or drink manufactured or derived in whole or in part from any such product, and such other natural products of agriculture as are designated in the regulations, and, for the purposes of this Act, fish shall be deemed to be a farm product;
- (c) "licence" means a licence provided for under the regulations;
- (d) "local board" means a board constituted under a plan;
- (e) "marketing" includes advertising, assembling, buying, financing, offering for sale, packing, processing, selling, shipping, storing and transporting and "market" and "marketed" have corresponding meanings;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "plan" means a plan to provide for the control and regulation of the marketing of a farm product that is in force under this Act, and includes a scheme approved under any predecessor of this Act;
- (h) "regulated product" means a farm product in respect of which a plan is in force;
- (i) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 162, s. 1; 1977, c. 63, s. 1.

Purpose
of Act**2.** The purpose and intent of this Act is,

- (a) to provide for the control and regulation in any or all respects of the marketing within Ontario of farm products; and
- (b) where a plan established under this Act for control and regulation of the marketing of a regulated product is amended to provide for control and regulation in any or all respects of the producing of the regulated product, to provide for control and regulation in any or all respects of the producing and marketing within Ontario of the regulated product,

including the prohibition of such marketing or such producing and marketing, as the case may be, in whole or in part. R.S.O. 1970, c. 162, s. 2.

Board
continued

3.—(1) The body corporate known as The Farm Products Marketing Board is continued.

Constitution
of Board

(2) The Board shall consist of one or more persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council.

Chairman,
vice-
chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board to act as chairman and one of the members of the Board to act as vice-chairman.

Allowances
to members

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant Governor in Council determines.

Quorum

(5) At any meeting of the Board, a quorum shall consist of at least three members of the Board, one of whom shall be either the chairman or the vice-chairman.

Officers,
clerks, etc.,
appointment

(6) The Board, subject to the approval of the Lieutenant Governor in Council, may appoint such officers, clerks and employees as it considers necessary, and the remuneration of such officers, clerks and employees shall be determined by the Lieutenant Governor in Council. R.S.O. 1970, c. 162, s. 3.

Authority
of Board**4.**—(1) The Board may,

- (a) subject to the regulations, investigate, adjust or otherwise settle any dispute relating to the marketing of a regulated product between producers and persons engaged in marketing or processing the regulated product;

- (b) investigate any matter relating to the producing, marketing or processing of a regulated product;
- (c) after a hearing, prohibit a person engaged in marketing a regulated product from terminating or varying, without just cause, the buying or the selling, as the case may be, of the regulated product;
- (d) investigate the cost of producing, processing and marketing any farm product, prices, price spreads, trade practices, methods of financing, management policies and other matters relating to the marketing of farm products;
- (e) require persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the Board or local board;
- (f) require persons engaged in producing or marketing a regulated product to furnish such information relating to the production or marketing of the regulated product, including the completing and filing of returns, as the Board or local board determines;
- (g) appoint persons to,
 - (i) inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product, and
 - (ii) enter on lands or premises used for the producing of any regulated product and measure the area of land used to produce the regulated product or perform a count of the regulated product;
- (h) appoint persons to inspect,
 - (i) the books, records and documents,
 - (ii) the lands and premises,
 - (iii) any flue-cured tobacco, and
 - (iv) any growing plants or other development in the producing of flue-cured tobacco,

of persons engaged in the producing of flue-cured tobacco;

- (i) stimulate, increase and improve the marketing of farm products by such means as it considers proper;
- (j) co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing any regulated product;
- (k) do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations or any plan. R.S.O. 1970, c. 162, s. 4 (1); 1977, c. 63, s. 2.

Powers of investigation

R.S.O. 1980, c. 411

(2) For the purposes of an investigation under this section, the Board has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 162, s. 4 (2); 1971, c. 49, s. 18.

Delegation of powers

(3) The Board may delegate to a local board such of its powers under subsection (1) as it considers necessary, and may, at any time, terminate such delegation.

Regulations respecting the filing of records with the Board

- (4) The Board may make regulations,
 - (a) providing for the filing by each local board with the Board of true copies of,
 - (i) minutes of all meetings of the local board,
 - (ii) all by-laws of the local board,
 - (iii) all orders and directions of the local board,
 - (iv) all reports of annual operations of the local board,
 - (v) all annual financial statements and audited reports of the local board, and
 - (vi) such further statements and reports as the Board requires from the local board;
 - (b) providing for,
 - (i) the furnishing to persons engaged in the producing, marketing or processing of a regulated product of copies of the annual statement of operations and the financial report of each local board, and

(ii) the publication of the annual statement of operations and the financial report of each local board; and

(c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, reports and statements shall be filed with the Board, furnished to producers or published, as the case may be, under clause (a) or (b).

(5) Every local board is a body corporate.

Local board
a body
corporate

(6) No member of the Board or of a local board and no officer, clerk or employee of the Board or of a local board is personally liable for anything done or omitted to be done by it or by him in good faith in the exercise of any power or the performance of any duty under the authority, or purporting to be under the authority, of this Act or the regulations. R.S.O. 1970, c. 162, s. 4 (3-6).

Protection
of board
members and
employees

5.—(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that a plan be established for the control and regulation of the marketing of a farm product or any class or part thereof and the Board is of the opinion that the group of producers is representative of the persons engaged in the production of the farm product or class or part thereof, the Board may recommend the establishment of such plan to the Minister.

Petition
for a plan

(2) Where the Board receives from a local board a request that amendment be made to the plan or to regulations under the plan under which the local board is constituted, the Board may recommend such amendment to the Minister. R.S.O. 1970, c. 162, s. 5.

Amendment
to plan

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations,

Regulations
re plans and
local boards

(a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario or any part thereof of any farm product and constituting local boards to administer such plans;

(b) amending any plan that is established for the control and regulation of the marketing of a regulated product to provide for the control and regulation in any or all respects of the producing within On-

tario or any part thereof of the regulated product under the plan;

- (c) designating as The Ontario Apple Marketing Commission any local board constituted under a plan to provide for the control and regulation of the marketing of apples;
- (d) defining any word or words for the purpose of any plan;
- (e) giving to any local board any or all of the powers that are vested in a co-operative corporation that is under the *Co-operative Corporations Act*, as amended from time to time, and providing that in the exercise of such powers the members of the local board shall be deemed to be the shareholders and the directors thereof;
- (f) prescribing by-laws for regulating the conduct of the affairs of the Board;
- (g) prescribing by-laws for regulating the government of local boards and the conduct of their affairs, but any local board may make by-laws not inconsistent with this Act, the regulations made under this clause or the regulations made under the plan under which the local board is established as amended from time to time;
- (h) notwithstanding any other Act, providing for,
 - (i) the carrying out by the Board or a trustee of any or all of the powers of a local board,
 - (ii) the vesting of the assets of a local board in the Board or a trustee, and
 - (iii) the disposing of any or all of the assets of a local board in such manner as is prescribed,and, where any regulation made under this clause is in conflict with any by-law of the local board, the regulation prevails;
- (i) dissolving a local board on such terms and conditions as he considers proper and providing for the disposition of its assets. R.S.O. 1970, c. 162, s. 6 (1); 1973, c. 104, s. 1 (2).

more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product produced or marketed for a particular purpose, and to any or all persons engaged in producing or marketing one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product produced or marketed for a particular purpose.

(3) The method by which the members of a local board shall be appointed, elected or chosen and the application of the plan shall be set out in the plan under which the local board is established. Contents of plan

(4) The acts of a member or an officer of a local board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and appointment or election. Acts of members valid
R.S.O. 1970, c. 162, s. 6 (2-4).

7.—(1) Every person when requested to do so by a person, appointed by the Board or a local board to carry out the duties referred to in clause 4 (1) (g) or (h) respecting a regulated product, shall, in respect of that regulated product, produce such books, records and documents and permit inspection thereof and supply extracts therefrom, permit inspection of such lands or premises and regulated product and permit such measurement of the area of land used to produce the regulated product or the performance of such count of the regulated product. Production of records, etc.

(2) No person shall hinder or obstruct a person, appointed by the Board or a local board to carry out the duties referred to in clause 4 (1) (g) or (h), in the course of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information. Obstruction

(3) The production by any person of a certificate of his appointment by the Board or a local board under clause 4 (1) (g) or (h), purporting to be signed by the chairman and secretary of the Board or the local board, shall be accepted by any person engaged in the producing or marketing of the regulated product as *prima facie* proof of such appointment. 1977, c. 63, s. 3. Certificate of appointment

8.—(1) The Board may make regulations generally or with respect to any regulated product, Regulations

1. providing for the licensing of any or all persons before commencing or continuing to engage in the

- producing, marketing or processing of a regulated product;
2. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence;
 3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the Board considers proper;
 4. providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the Board or local board or marketing agency;
 5. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing the regulated product and the collecting of the licence fees and the recovering of such licence fees by suit in a court of competent jurisdiction;
 6. requiring any person who receives a regulated product to deduct from the moneys payable for the regulated product any licence fees payable to the local board by the person from whom he receives the regulated product, and to forward such licence fees to the local board;
 7. requiring any person who produces and processes a regulated product to furnish to the Board or the local board statements of the amounts of the regulated product that he produced in any year and used for processing;
 8. prescribing the form of licences;
 9. providing for the exemption from any or all of the regulations, orders or directions under any plan of any class, variety, grade or size of regulated product, or any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product;

10. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and providing for the administration and disposition of any moneys or securities so furnished;
11. providing for the control and regulation of the producing of flue-cured tobacco, including the times and places at which flue-cured tobacco may be produced;
12. authorizing a local board,
 - i. to require that a regulated product be marketed on a quota basis,
 - ii. to prohibit any person to whom a quota has not been fixed and allotted for the marketing of a regulated product or whose quota has been cancelled from marketing any of the regulated product,
 - iii. to prohibit any person to whom a quota has been fixed and allotted for the marketing of a regulated product from marketing any of the regulated product in excess of such quota, and
 - iv. to prohibit any person to whom a quota has been fixed and allotted for the marketing of a regulated product produced on lands or premises in respect of which such quota was fixed and allotted from marketing any of the regulated product other than the regulated product produced on such lands or premises;
13. authorizing a local board,
 - i. to fix and allot to persons quotas for the marketing of a regulated product on such basis as the local board considers proper,
 - ii. to refuse to fix and allot to any person a quota for the marketing of a regulated product for any reason that the local board considers proper,
 - iii. to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for the marketing of a regulated product for any reason that the local board considers proper, and

- iv. to permit any person to whom a quota has been fixed and allotted for the marketing of a regulated product to market any of the regulated product in excess of such quota on such terms and conditions as the local board considers proper;

14. authorizing a local board,

- i. to require that a regulated product be produced on a quota basis,
- ii. to prohibit any person to whom a quota has not been fixed and allotted for the producing of a regulated product or whose quota has been cancelled from producing any of the regulated product,
- iii. to prohibit any person to whom a quota has been fixed and allotted for the producing of a regulated product from producing any of the regulated product in excess of such quota, and
- iv. to prohibit any person to whom a quota has been fixed and allotted for the producing of a regulated product on lands or premises in respect of which such quota was fixed and allotted from producing any of the regulated product other than the regulated product produced on such lands or premises;

15. authorizing a local board,

- i. to fix and allot to persons quotas for the producing of a regulated product on such basis as the local board considers proper,
- ii. to refuse to fix and allot to any person a quota for the producing of a regulated product for any reason that the local board considers proper,
- iii. to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing a regulated product for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board believes

on reasonable grounds that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- iv. to permit any person to whom a quota has been fixed and allotted for the producing of a regulated product to produce any of the regulated product in excess of such quota on such terms and conditions as the local board considers proper;
- 16. providing for the control and regulation of the marketing of any regulated product, including the times and places at which the regulated product may be marketed;
- 17. providing for the control and regulation of agreements entered into by producers of a regulated product with persons engaged in marketing or processing the regulated product, and the prohibition of any provision or clause in such agreements;
- 18. authorizing a local board to use any class of licence fees, service charges, and other moneys payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing this Act and the regulations and carrying out the purposes of the plan under which the local board is established;
- 19. notwithstanding any other Act, providing that no local board shall make grants or other like payments of money to any person or association or body of persons without the approval of the Board;
- 20. authorizing a local board to establish a fund in connection with any plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 18;
- 21. providing for the establishment, in connection with any plan, of advisory committees that may be empowered to advise and make recommendations to the local board or to any person or organization represented on the committee in respect of,
 - i. the promotion of harmonious relationships between persons engaged in the production and marketing of the regulated product,

- ii. the promotion of greater efficiency in the production and marketing of the regulated product,
 - iii. the prevention and correction of irregularities and inequities in the marketing of the regulated product,
 - iv. the improvement of the quality and variety of the regulated product,
 - v. the improvement of the circulation of market information respecting the regulated product,
 - vi. without limiting the generality of any of the foregoing, any matter with respect to which the Board or the local board may be empowered to make regulations under this Act;
22. determining the constitution of such advisory committees and regulating the practice and procedure of such committees;
23. providing for the establishment in connection with any plan, negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters:
- i. minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
 - ii. terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,
 - iii. any charges, costs or expenses relating to the production or marketing of the regulated product,
 - iv. the minimum amount of rental to be paid by or on behalf of a person engaged in processing a regulated product to lease land from an owner or tenant for the production of the regulated product and the terms and conditions of lease that shall apply in respect of the leasing of any such land;

24. providing for the establishment, in connection with any plan, of a conciliation board that may be empowered,
 - i. to endeavour to effect agreement on any matter referred to in paragraph 23 that a negotiating agency has failed to adopt or settle by agreement, and
 - ii. to recommend adoption of any agreement effected under subparagraph i to such negotiating agency;
25. providing for the arbitration by a board of any matter not adopted or settled by agreement under paragraph 23;
26. providing for the arbitration by an arbitrator or by a board of any dispute arising out of any agreement adopted or settled under paragraph 23 or any award made under paragraph 25;
27. determining the constitution of such negotiating agencies, conciliation boards and boards of arbitration and regulating the practice and procedure of such agencies and boards;
28. requiring that no charges, costs or expenses relating to the production or marketing of the regulated product shall be made other than such charges, costs or expenses as are provided in the agreement or award or renegotiated agreement or award in force for the marketing of the regulated product;
29. authorizing any local board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade or size of the regulated product delivered by him, and authorizing such local board to make an initial payment on delivery of the regulated product and subsequent payments until all of the remainder of the moneys received from the sale is distributed to the producers;

30. authorizing any local board to require the price or prices payable or owing to the producers for the regulated product to be paid to or through the local board and to recover such price or prices by suit in a court of competent jurisdiction;
31. authorizing any local board to prohibit the marketing of any class, variety, grade or size of any regulated product;
32. providing for the carrying out of any plan declared by the Lieutenant Governor in Council to be in force;
33. designating as a farm product any article of food or drink manufactured or derived in whole or in part from a farm product or any natural product of agriculture;
34. providing for the holding of a plebiscite of producers upon a question of favour of a plan or amendment of a plan or any matter respecting the marketing of a regulated product;
35. providing for the holding of public hearings on matters respecting the operation of any plan or the holding of a plebiscite of producers;
36. requiring any person who produces a regulated product to offer to sell and to sell the regulated product to or through the local board constituted to administer the plan under which the regulated product is regulated;
37. prohibiting any person from processing, packing or packaging any of the regulated product that has not been sold to, by or through the local board constituted to administer the plan established for the control and regulation of the marketing of the regulated product;
38. authorizing any local board to appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration;
39. providing for the making of agreements relating to the marketing of any regulated product by or through a local board, and prescribing the forms and the terms and conditions of such agreements;

40. providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any order or direction of the Board or a local board or a marketing agency; and

41. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 162, s. 8 (1); 1972, c. 156, s. 1 (1); 1977, c. 63, s. 4 (1, 2).

(2) Every agreement made under paragraph 23 of subsection (1) and every award made under paragraph 25 or 26 of subsection (1) and every renegotiated agreement or award made under clause (b) of this subsection, Agreements and awards

(a) shall be filed with the Board forthwith after the making thereof and the Board may, notwithstanding any defect in the establishment of the negotiating agency or the board of arbitration, as the case may be, by order declare the agreement or award or renegotiated agreement or award or part thereof to come into force on the day it is so filed or on such later day as is named in the agreement or award or renegotiated agreement or award, as the case may be, and, subject to clause (b), shall remain in force for one year or for such period as is provided in the agreement or award or renegotiated agreement or award; and

(b) may at any time upon an order of the Board be renegotiated in whole or in part in such manner as the Board may determine.

(3) The *Regulations Act* does not apply to any order of the Board made under subsection (2). Where R.S.O. 1980, c. 446 not to apply

(4) Any regulation made under this section may be limited as to time and place. Regulations may be limited

(5) The Board may delegate to a local board such of its powers under subsection (1) as it considers necessary, and may at any time terminate such delegation. Delegation of powers to local board

(6) Where the Board authorizes a local board to exercise any of the powers mentioned in subsection (1), the local board, in the exercise of such powers, may make regulations or orders or issue directions. R.S.O. 1970, c. 162, s. 8 (2-6). Authority of local board to make regulations, etc.

Acts of
local board
deemed
adminis-
trative

(7) Everything that is done by a local board under the authority of paragraph 13 or 15 of subsection (1) shall be deemed to be of an administrative and not of a legislative nature. 1977, c. 63, s. 4 (3).

Regulations
vesting
powers in
local board

9.—(1) The Board may make regulations vesting in any local board any powers that the Board considers necessary or advisable to enable such local board effectively to promote, regulate and control the marketing of the regulated product, and without limiting the generality of the foregoing, may make regulations,

(a) vesting in any local board any or all of the following powers:

- (i) to direct and control, by order or direction, either as principal or agent, the marketing of the regulated product, including the times and places at which the regulated product may be marketed,
- (ii) to determine the quality of each class, variety, grade and size of the regulated product that shall be marketed by each producer,
- (iii) to prohibit the marketing of any class, variety, grade or size of the regulated product,
- (iv) to determine from time to time the price or prices that shall be paid to producers or to the local board, as the case may be, for the regulated product or any class, variety, grade or size of the regulated product and to determine different prices for different parts of Ontario,
- (v) to fix and impose service charges from time to time for the marketing of the regulated product,
- (vi) to require the price or prices payable or owing to the producer for the regulated product to be paid to or through the local board,
- (vii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product,
- (viii) to purchase or otherwise acquire such quantity or quantities of the regulated product

as the local board considers advisable and to sell or otherwise dispose of any of the regulated product so purchased or acquired,

- (ix) to pay from service charges imposed under subclause (v) its expenses in carrying out the purposes of the plan,
 - (x) to pay to the producers the price or prices for the regulated product less service charges imposed under subclause (v) and to fix the times at which or within which such payments shall be made;
- (b) where a local board has been designated as The Ontario Apple Marketing Commission, vesting in the Commission any or all of the following powers,
- (i) to determine from time to time the price or prices that shall be paid for the regulated product or any class, variety, grade or size of the regulated product to persons engaged in the producing, marketing or processing of the regulated product and to determine different prices for different parts of Ontario,
 - (ii) to require the price or prices payable or owing to any person for the regulated product to be paid to or through the Commission,
 - (iii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product owing to any person engaged in the producing, marketing or processing thereof,
 - (iv) to pay to any person engaged in the producing, marketing or processing of the regulated product the price or prices for the regulated product less service charges imposed under subclause (a) (v) and to fix the times at which or within which such payments shall be made;
- (c) providing that the regulated product shall be marketed by or through the local board and prohibiting any person from marketing any of the regulated product except by or through the local board;

- (d) providing for statements to be given by any local board to persons engaged in the producing, marketing or processing of the regulated product showing the class, variety, grade or size and the number or quantity of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by it.

Powers may
be limited

- (2) Any powers exercisable by a local board may be limited as to time and place.

Power of
local board
to make
regulations,
etc.

- (3) Where the Board vests in a local board any of the powers mentioned in clause (1) (a) or (b), the local board, in the exercise of such powers, may make regulations or orders or issue directions.

Board may
require
information

- (4) The Board may from time to time with respect to any regulated product require the local board to furnish any information that the Board considers necessary to determine the operations of the local board and, without limiting the generality of the foregoing, may require the local board to furnish particulars of,

- (a) the service charges fixed under subclause (1) (a) (v);
- (b) the purposes for which the service charges are used and the amounts expended for each purpose;
- (c) any proposed changes in the amounts of the service charges;
- (d) operating deficits or profits and reserves of the local board;
- (e) property leased, owned or otherwise acquired or used by the local board; and
- (f) the purposes of the plan in effect for the marketing of the regulated product.

Maximum
service
charges

- (5) The Board may by order in respect of any regulated product require the local board to fix the service charges under subclause (1) (a) (v) at such amounts, or at amounts not exceeding such amounts, as the Board considers proper.

Board may
require
information

- (6) The Board may require any local board,

- (a) to furnish to the Board particulars of any proposed change in the purposes of the plan at least ten days before the proposed change becomes effective;
- (b) to carry out any purpose of the plan that the Board considers necessary or advisable;
- (c) to vary any purpose of the plan as the Board considers advisable; and
- (d) to cease or desist from the carrying out of any purpose or proposed purpose of the plan that the Board considers unnecessary or inadvisable. R.S.O. 1970, c. 162, s. 9.

10. Where the Board delegates to a local board any of its powers or vests in a local board powers to promote, regulate and control the marketing of a regulated product, the Board may, at any time, Limitation of powers of local board

- (a) limit the powers of the local board in any or all respects; and
- (b) revoke any regulation, order or direction of the local board made or purporting to be made under such powers. R.S.O. 1970, c. 162, s. 10.

11.—(1) Any person who is a producer and a processor of a regulated product is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and a processor. Producer-processor

(2) Any person who is a producer and a processor of a regulated product shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the regulated product produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the sale thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply. Idem

(3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the processing, on his or their account, by a processor, of any regulated product produced by him or them, he or they shall be deemed to be a producer and processor or producers and processors for the purposes of subsections (1) and (2). Producer deemed to be a producer-processor

Producer
and person
marketing
regulated
product

(4) Any person who is a producer and a person engaged in marketing a regulated product is entitled in his respective capacities as a producer and as a person engaged in marketing the regulated product to all the rights and privileges and is subject to all the duties and obligations of a producer and a person engaged in marketing the regulated product.

Idem

(5) Any person who is a producer and a person engaged in marketing a regulated product shall be deemed to have received in his capacity as a person engaged in marketing the regulated product from himself in his capacity as a producer the regulated product produced by him that he engages in marketing and to have contracted in that capacity with himself in his capacity as a producer for the sale thereof upon the condition that the regulations, orders, directions, agreements and awards and the re-negotiated agreements and awards made under this Act apply.

Producer
deemed to
be person
marketing
regulated
product

(6) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the marketing, on his or their account, by a person engaged in marketing, of any regulated product produced by him or them, he or they shall be deemed to be a producer and person engaged in marketing or producers and persons engaged in marketing for the purposes of subsections (4) and (5). 1977, c. 63, s. 5.

Administra-
tion of Act

12. The moneys required for the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 162, s. 13.

Petition for
designation
of associa-
tion of
producers
R.S.O. 1980,
cc. 8, 95

13.—(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that an association of producers of a farm product, other than a regulated product, incorporated under the *Agricultural Associations Act* or the *Corporations Act* or any predecessor of either of such Acts, and having as its objects the stimulating, increasing and improving of the marketing locally within Ontario of the farm product by advertising, education, research or other means, be designated as the representative association for all producers in Ontario of that farm product, the Board shall,

- (a) obtain such information as it considers necessary to determine that the association is representative of the persons engaged in the production of the farm product;
- (b) consider any proposed program of the association for the stimulating, increasing or improving of the

marketing locally within Ontario of the farm product; and

- (c) obtain estimates of the cost of carrying out such program.

(2) Where the Board is of the opinion that a majority of the producers in Ontario of the farm product mentioned in subsection (1) are in favour of the designation of the association as the representative association of all producers of that farm product in Ontario and are in favour of a proposed program of the association for stimulating, increasing and improving the marketing of the farm product, the Board may recommend to the Minister the designation of the association as the representative association of producers of the farm product within Ontario and the establishment of such program.

Recommendation by Board for designation of association and establishment of program

(3) The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating any association of producers of a farm product, other than a regulated product, incorporated under the *Agricultural Associations Act* or the *Corporations Act* or any predecessor of either of such Acts, as the representative association of producers of the farm product within Ontario for the carrying out of a program for stimulating, increasing and improving the marketing locally within Ontario of the farm product by advertising, education, research or other means; R.S.O. 1980, cc. 8, 95
- (b) establishing, amending and revoking any program for stimulating, increasing and improving the marketing locally within Ontario of a farm product, other than a regulated product;
- (c) requiring producers of the farm product to pay licence fees to the association;
- (d) designating the amounts of licence fees and requiring payment of the fees in different amounts or in instalments;
- (e) requiring persons who buy the farm product from a producer to deduct from moneys payable to the producer any licence fees payable by the producer and to forward such licence fees to the association;
- (f) authorizing the association to use the licence fees for the purposes of defraying the expenses of the association in the carrying out of its objects;

- (g) requiring the association to furnish to the Board such information and financial statements as the Board determines.

Where
producers
deemed
licence
holders

(4) Where the Lieutenant Governor in Council makes regulations establishing a program under subsection (3), every producer of the farm product shall be deemed to be the holder of a licence for the production of the farm product.

Limitations
and
exceptions

(5) Any regulation under subsection (3) may,

- (a) be limited as to time and place;
- (b) exempt from the regulations any person or class of persons or any class, variety, grade or size of the farm product; and
- (c) fix licence fees of different amounts for different classes, varieties, grades or sizes of the farm product.

Inspection of
records and
furnishing of
information

(6) Where a regulation has been made under subsection (3), the Board may,

- (a) appoint any person to inspect the books, records and premises of persons who produce or buy the farm product, and section 7 applies with necessary modifications in respect of a person so appointed; and
- (b) require persons engaged in producing or buying the farm product to furnish such information and make such returns and reports as the Board determines. R.S.O. 1970, c. 162, s. 14.

Injunction
proceedings

14. Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any plan, order, direction, agreement, award or renegotiated agreement or award made under this Act has been or is being committed by any person engaged in marketing or processing a regulated product, the Supreme Court or a judge thereof may, upon the application of the Board or a local board, enjoin any such person from continuing to engage in marketing or processing the regulated product absolutely or for such period as seems just, and any injunction cancels the licence, if any, of the person named in the order for the same period. R.S.O. 1970, c. 162, s. 15.

Regulations
vesting
power in
local board
to make
regulations

15.—(1) The Board may make regulations vesting in any local board the power to make regulations,

- (a) providing for the seizure and detention of the whole or any part of any regulated product or any class,

variety, grade or size thereof by any person appointed pursuant to clause 4 (1) (g) where the person believes on reasonable grounds an offence against the Act or the regulations has been committed in respect of the regulated product;

- (b) providing for the release from detention of the whole or any part of any regulated product or any class, variety, grade or size thereof where the local board is satisfied that the owner of the regulated product that has been seized and detained complies with the Act and the regulations respecting the regulated product;
- (c) providing for the disposal of the whole or any part of any regulated product or any class, variety, grade or size thereof that has been seized and detained and providing for the administration and disposition of any moneys derived from any such disposal; and
- (d) prescribing the manner in which the regulated product shall be seized, detained, released and disposed of.

(2) Any regulated product seized and detained under this section is seized and detained at the risk and expense of the owner.

Regulated
product
seized and
detained at
risk and
expense of
owner

(3) Where any regulated product is seized and detained under this section, the local board shall forthwith notify the owner or person who had possession of the regulated product of the seizure and detention, any release from detention and any disposal of the regulated product.

Notice

(4) Where the local board makes a regulation under subsection (1), a person appointed pursuant to clause 4 (1) (g) may,

Powers of
inspector

- (a) enter any vessel, boat, car, truck or other conveyance or any premises, other than a dwelling, used for the producing, marketing or processing of the regulated product and inspect any of the regulated product found therein;
- (b) stop any conveyance that he believes to contain any of the regulated product and inspect the conveyance and any of the regulated product found therein; and
- (c) obtain a sample of any of the regulated product at the expense of the owner for the purpose of making an inspection thereof.

Marketing
of detained
product
prohibited

(5) No person shall, without approval in writing by the local board, market a regulated product that is under detention.

Approval
by Board

(6) No regulation made by a local board under subsection (1) comes into force until it has been approved by the Board. 1971, c. 1, s. 1.

Offences

16. Every person who fails to comply with or contravenes any of the provisions of this Act, or of the regulations, or of any plan, or of any order, regulation or direction of the Board or any local board or of any agreement or award or renegotiated agreement or award filed with the Board is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000. R.S.O. 1970, c. 162, s. 16.

Failure
to pay
minimum
price

17.—(1) Every person who fails to pay at least the minimum price established for a regulated product in an agreement or award filed with the Board or the price of a regulated product determined by a local board is, in addition to the fine provided for in section 16, liable to a penalty of an amount equal to the amount of such minimum or determined price, less any amount paid by such person as payment in full or in part for such regulated product.

Disposition
of penalty

(2) Every penalty imposed under subsection (1) shall be paid to the local board and the local board shall,

(a) distribute the money so paid *pro rata* among the persons who failed to receive at least the minimum or determined price; or

(b) use the money to stimulate, increase and improve the marketing of the regulated product. R.S.O. 1970, c. 162, s. 17.

Moneys
received
by Board

18. All moneys received by the Board shall be deposited to the credit of the Consolidated Revenue Fund. R.S.O. 1970, c. 162, s. 18.

Evidence

19. In an action or prosecution under this Act where the production of an agreement, award, order, regulation, direction, rule, resolution, determination or minute of the Board or a local board is required, any document purporting to be a copy of such agreement, award, order, regulation, direction, rule, resolution, determination or minute, certified to be a true copy thereof by the chairman or secretary of the Board or the local board, as the case may be, is admissible in evidence as *prima facie* proof of the making and the text thereof without production of the original document

and without proof of the signature of the person purporting to have certified it. R.S.O. 1970, c. 162, s. 19.

20.—(1) In an action or prosecution under this Act, the onus is upon the defendant or the accused, as the case may be, to prove that the product in respect of which the action or prosecution is brought is not a regulated product within the meaning of this Act. Onus in action or prosecution

(2) In a prosecution under the *Agricultural Products Marketing Act* (Canada), the court if it finds that the offence is not proved under that Act but the evidence establishes an offence of a similar kind in relation to the control or regulation of the marketing of the regulated product locally within Ontario under section 16 or 17, may convict the accused under this Act notwithstanding that no information has been laid under this Act. R.S.O. 1970, c. 162, s. 20. Evidence applicable
R.S.C. 1970,
c. A-7

21.—(1) In this section,

Interpre-
tation

- (a) “local board” means The Ontario Flue-Cured Tobacco Growers’ Marketing Board;
- (b) “producing” means planting, growing, harvesting, curing or preparing for sale, and “produced” and “production” have corresponding meanings;
- (c) “tobacco” means unmanufactured flue-cured tobacco produced in Ontario;
- (d) “tobacco farm” means one or more parcels of land in respect of which the Board or the local board determines,

(i) the land is suitable for the producing of tobacco, and

(ii) the producer has provided such buildings or other structures and equipment as are suitable and adequate for the producing of tobacco,

and in respect of which the Board or the local board, as the case may be, allots a tobacco hectareage; and

- (e) “tobacco hectareage” means a number of hectares of land fixed and allotted to a person for the producing in any year of tobacco on a tobacco farm. R.S.O. 1970, c. 162, s. 21 (1); 1978, c. 87, s. 7 (1, 2).

Regulations
re tobacco

(2) The Board may make regulations,

(a) notwithstanding paragraph 3 of subsection 8 (1), providing for the refusal to grant a licence for the producing of tobacco for any reason that the Board considers proper;

(b) authorizing the local board,

(i) to require that tobacco be produced on a basis of tobacco hectarage or other production quota,

(ii) to prohibit any person to whom a tobacco hectarage or other production quota has not been fixed and allotted or whose tobacco hectarage or other production quota has been cancelled from producing tobacco,

(iii) to prohibit any person to whom a tobacco hectarage or other production quota has been fixed and allotted from producing any tobacco on hectarage in excess of the tobacco hectarage, or other production quota, fixed and allotted to such person, and

(iv) to prohibit any person from producing tobacco on land other than a tobacco farm in respect of which a tobacco hectarage or other production quota has been fixed and allotted to such person;

(c) authorizing the local board,

(i) to fix and allot to persons tobacco hectarages or other production quotas on such basis as the local board considers proper,

(ii) to refuse to allot to any person a tobacco hectarage or other production quota on such basis as the local board considers proper,

(iii) to cancel or reduce, or refuse to increase, a tobacco hectarage or other production quota fixed and allotted to any person for any reason that the local board considers proper;

(d) providing for the seizing, removing, destroying or otherwise disposing of any growing tobacco plants or tobacco produced or marketed in contravention of this Act or the regulations, and the retention or

disposition by the local board of any proceeds of the sale thereof. R.S.O. 1970, c. 162, s. 21 (2); 1972, c. 156, s. 2 (1); 1978, c. 87, s. 7 (3, 4).

(3) Any regulation made under this section may be limited as to time and place. Regulations may be limited

(4) The Board may delegate to the local board such of the powers under subsection (2) as it considers necessary and may at any time terminate such delegation. R.S.O. 1970, c. 162, s. 21 (3, 4). Delegation of powers to local board

(5) Where the Board authorizes the local board to exercise any of the powers mentioned in subsection (2), the local board, in the exercise of such powers, may make regulations or orders or issue directions. Exercise of powers by local board

(6) Everything that is done by the local board under the authority of clause (2) (c) shall be deemed to be of an administrative and not of a legislative nature. 1972, c. 156, s. 2 (2). Actions of local board deemed to be administrative

(7) Notwithstanding section 16, every person who fails to comply with or contravenes any of the provisions of this section or of any regulation, order or direction of the Board or the local board made pursuant to this section is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than \$500 and, for a subsequent offence, to a fine of not less than \$500 and not more than \$5,000. R.S.O. 1970, c. 162, s. 21 (5). Penalty

22.—(1) In this section,

Interpretation

- (a) "chicks-for-placement" means female chickens twenty weeks of age or less or any class thereof;
- (b) "eggs" means eggs of a domestic hen other than hatching eggs;
- (c) "fowl" means a domestic hen more than twenty weeks of age;
- (d) "hatching eggs" means eggs of a domestic hen produced for the purpose of hatching into chicks;
- (e) "local board" means The Ontario Egg Producers' Marketing Board;
- (f) "producing" means,

- (i) in the case of chicks-for-placement, the provision of housing, feed, water or care therefor and the preparation thereof for sale or for use as fowl, and
- (ii) in the case of eggs and hatching eggs, the provision of housing, feed, water or care for the fowl that lay such eggs or hatching eggs and the preparation of the eggs or hatching eggs for sale or for hatching, as the case may be.

Regulations
re chicks-
for-
placement,
eggs, hatching
eggs and fowl

(2) The Board may make regulations,

- (a) notwithstanding paragraph 3 of subsection 8 (1), providing for the refusal to grant a licence for the producing of chicks-for-placement or eggs or hatching eggs for any reason that the Board considers proper;
- (b) authorizing the local board,
 - (i) to require that chicks-for-placement be produced on a quota basis,
 - (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of chicks-for-placement or whose quota has been cancelled from producing any chicks-for-placement,
 - (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of chicks-for-placement from producing any chicks-for-placement in excess of such quota, and
 - (iv) to prohibit any person from producing chicks-for-placement in premises other than premises in respect of which a quota for producing chicks-for-placement has been fixed and allotted to such person;
- (c) authorizing the local board,
 - (i) to fix and allot to persons quotas for producing chicks-for-placement on such basis as the local board considers proper,
 - (ii) to refuse to fix and allot to any person a quota for producing chicks-for-placement for

any reason that the local board considers proper,

- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing chicks-for-placement for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of chicks-for-placement to produce any chicks-for-placement in excess of such quota on such terms and conditions as the local board considers proper;

(d) authorizing the local board,

- (i) to require that eggs be produced on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of eggs or whose quota has been cancelled from producing any eggs,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of eggs from producing any eggs in excess of such quota, and
- (iv) to prohibit any person from producing eggs in premises other than premises in respect of which a quota for producing eggs has been fixed and allotted to such person;

(e) authorizing the local board,

- (i) to fix and allot to persons quotas for producing eggs on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for producing eggs for any reason that the local board considers proper,

- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing eggs for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
 - (iv) to permit any person to whom a quota has been fixed and allotted for the producing of eggs to produce any eggs in excess of such quota on such terms and conditions as the local board considers proper;
- (f) authorizing the local board,
- (i) to require that hatching eggs be produced on a quota basis,
 - (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of hatching eggs or whose quota has been cancelled from producing any hatching eggs,
 - (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of hatching eggs from producing any hatching eggs in excess of such quota, and
 - (iv) to prohibit any person from producing hatching eggs in premises other than premises in respect of which a quota for producing hatching eggs has been fixed and allotted to such person;
- (g) authorizing the local board,
- (i) to fix and allot to persons quotas for producing hatching eggs on such basis as the local board considers proper,
 - (ii) to refuse to fix and allot to any person a quota for producing hatching eggs for any reason that the local board considers proper,
 - (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing hatching eggs for any reason that

the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of hatching eggs to produce any hatching eggs in excess of such quota on such terms and conditions as the local board considers proper;

(h) authorizing the local board,

- (i) to require that fowl be possessed on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the possession of fowl or whose quota has been cancelled from possessing any fowl,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for possessing fowl from possessing any fowl in excess of such quota, and
- (iv) to prohibit any person from possessing fowl in premises other than premises in respect of which a quota for possessing fowl has been fixed and allotted to such person;

(i) authorizing the local board,

- (i) to fix and allot to persons quotas for possessing fowl on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for possessing fowl for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for possessing fowl for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where

the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- (iv) to permit any person to whom a quota has been fixed and allotted for possessing fowl to possess any fowl in excess of such quota on such terms and conditions as the local board considers proper.

Regulation
may be
limited

- (3) Any regulation made under this section may be limited as to time and place.

Delegation of
powers to
local board

- (4) The Board may delegate to the local board such of its powers under clause (2) (a) as it considers necessary and may at any time terminate such delegation.

Exercise of
powers by
local board

- (5) Where the Board authorizes the local board to exercise any of the powers mentioned in subsection (2), the local board, in the exercise of such powers, may make regulations or orders or issue directions.

Actions of
local board
deemed to be
admini-
strative

- (6) Everything that is done by the local board under the authority of clause (2) (c), (e), (g) or (i) shall be deemed to be of an administrative and not of a legislative nature.

Powers of
search,
inspection,
etc.

- (7) Every person appointed under clause 4 (1) (g) or under a regulation made thereunder may, without a warrant,

(a) stop, enter and search any vehicle;

(b) enter and search any premises, other than a dwelling; and

(c) open and inspect any package or container,

if he has reasonable grounds to believe that any of them contains any chicks-for-placement, eggs, hatching eggs or fowl in respect of which there is or has been a contravention of this Act or the regulations.

Exercise of
power

- (8) A person referred to in subsection (7) may use as much force as is necessary for him to exercise the powers conferred upon him by subsection (7). 1975, c. 6, s. 1.

Agreements

23.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements with the Government of Canada providing for,

- (a) the performance by a marketing agency of Canada, on behalf of the Government of Ontario, of any function relating to intraprovincial trade in a regulated product in respect of which the marketing agency may exercise its powers relating to interprovincial or export trade;
- (b) the performance by the Board or any local board of Ontario, on behalf of the Government of Canada, of any function relating to interprovincial or export trade in a regulated product in respect of which the Board or local board may exercise its powers relating to intraprovincial trade; and
- (c) such other matters relating to intraprovincial and interprovincial or export trade as may be agreed upon by the Minister and the Government of Canada.

(2) The Board or a local board may perform on behalf of the Government of Canada any function relating to interprovincial or export trade in a regulated product that is specified in an agreement entered into under subsection (1). Authority to exercise powers conferred by agreement

(3) The Board or a local board may, with the approval of the Lieutenant Governor in Council, grant authority to any marketing agency of Canada that is authorized to exercise powers of regulation in relation to interprovincial or export trade in a regulated product to perform on behalf of the Board or local board any function relating to intraprovincial trade that the Board or local board may perform. Delegation of powers

(4) The Lieutenant Governor in Council may grant authority to any marketing agency of Canada that is authorized to exercise powers of regulation in relation to interprovincial or export trade in a farm product to regulate the marketing within Ontario of such farm product, and for such purposes to exercise any power that it may exercise in relation to the marketing of such farm product in interprovincial or export trade. 1971, c. 42, s. 1. Idem

